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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,035	08/21/2003	Michael E. Ring	CRD 01482	7356

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/645,035

Applicant(s)

RING ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification fails to provide proper antecedent basis for the terms "first substantially vertically disposed plate like member", "second substantially vertically disposed plate like member", "horizontally disposed plate like member" as claimed in claim 1, "a first plate like member" claimed in claim 2, "a second plate like member" claimed in claim 3, and "a guide means" claimed in claim 7. It is unclear to the Examiner as to which elements Applicant intends to refer to. Clarification is required.

***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Claim 5 has been skipped. Renumbering is required.

3. Claims 1-4 and 6-19 are objected to because of the following informalities:

- First claimed in line 8 from the bottom of claim 1 "planer" should be changed to —planar—(also see claims 3, 7, 8, and 10)

- in the last line of claim 4 "said first substantially vertically disposed member" should be changed to --said first substantially vertically disposed plate like member-- to maintain consistent terminology;
- in claim 8 line 3 "outer" should be changed to --outter--;
- in the last line of claim 8 a period should be included at the end. The remaining claims are objected to due to their dependency from one of claims 1, 7, and 10. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 3, 8, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claims 2 and 3. The phrase "foreign material" first claimed in lines 3-4 from the bottom of claim 2 is confusing. It is unclear to the Examiner whether the foreign material in claims 2 and 3 is intended to be the same or different from that claimed in claim 1.

Re: claims 8 and 16. The phrase "pair of guide means" in line 2 of claim 8 and the phrase "a means for guiding" in lines 2-3 of claim 16 are indefinite. It is unclear to the Examiner whether the pair of guide means and the means for guiding intend to include or be separate from the guide means claimed in claims 7 and 10.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4, 7-14, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6116385 to Ring.

Re: claim 1. Ring shows in figures 1 and 3 an actuating member for a railway vehicle brake assembly, such railway vehicle brake assembly having an air bag actuator 58 incorporated therein, said actuating member comprising: a first substantially vertically disposed plate like member or right side of element 50, said first substantially vertically disposed plate like having a first substantially planer surface shown in the area of the lead line of number 51 engageable via intervening elements with a first surface shown in the area of the lead line of number 88 of a second substantially vertically disposed plate like member shown in the area of element number 83 attached to such air bag actuator, a substantially horizontally disposed plate like member shown in the area of the lead line of number 84 connected to the first substantially vertically disposed plate like member adjacent a bottom edge thereof and extending substantially perpendicular to the first planar surface of the first vertically disposed plate member for shielding at least a first portion of the air bag actuator from foreign material as shown, and a means shown at the left end of element 60 connected to a radially opposed second surface of the first vertically disposed plate like member via intervening

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elements for securing the actuating member to a control linkage (or element connected to the left end of element 60 shown in figure 1) of the assembly.

Re: claim 2. Ring shows in figure 3 the limitation wherein the actuating member further includes a first plate member 82 connected to an upper surface of the substantially horizontally disposed member and to the first planar surface of the first substantially vertically disposed plate like member adjacent a first side edge thereof and extending substantially perpendicular thereto for shielding at least a second portion of the air bag actuator from foreign material and for providing added strength.

Re: claim 3. Ring shows in figure 3 the limitation wherein the actuating member further includes a second plate like member 31 connected to the upper surface of the substantially horizontally disposed member via intervening elements and to the first planar surface of the first substantially vertically disposed plate like member adjacent a second side edge thereof and extending substantially perpendicular thereto for shielding at least a third portion of the air bag actuator from foreign material and for providing added strength.

Re: claims 4 and 9. Ring shows in figure 3 the limitation wherein the first vertically disposed plate member includes at least one mounting aperture 64 formed therethrough. Or in an alternate interpretation the first vertically disposed member can be element 83 and the mounting aperture can be element 86.

Re: claims 7, 10, 11, and 16. Ring shows the invention as set forth in the rejection of claim 1 above and shows a guide means 72 connected to an disposed closely adjacent a first outer edge of (via intervening elements in the position shown in

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figure 3) and (portions of which being) substantially perpendicular to the planar surface portion of the first vertically disposed plate member for guiding and alignment and a securing means 31 connected to the first substantially vertically disposed plate member for enabling attachment to a rigid structure shown attached to element 31 in figure 1.

Re: claim 8. Ring shows in figure 3 a pair of guide means 72,74, a second one of the pair of guide means 74 disposed closely adjacent a second outer edge of and substantially perpendicular to the planar surface portion of the first vertically disposed plate member.

Re: claims 12, 13, and 19. Ring shows in figure 3 a means (or thin piece) attached to the right of element 74) for limiting reciprocal motion of the air spring actuator.

Re: claim 14. Ring shows in figure 3 an air inlet 64 in communication with the at least one air bag spring 59.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ring in view of US Patent 6267043 to Plantan et al.

Re: claim 6. Ring shows in figure 3 the limitation wherein the means connected

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to the radially opposed second surface of the first vertically disposed plate member for securing the actuating member to the control linkage of the railway vehicle brake assembly includes at least one plate member or bottom plate of the leftmost side of element 60 having an aperture as shown formed therethrough.

Ring does not include the limitation of a pin member disposed in the aperture for securing the at least one plate member to such control linkage.

Plantan et al. teach in figures 2 and 4 the use of a brake actuator having a plate member 84 having an aperture 86 and a pin member 88 disposed in the aperture.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the aperture of the plate member of Ring to have included a pin member therethrough, as taught by Plantan et al., in order to provide a means of reciprocating element 60 within elements 83 and 84.

10. Claims 15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ring in view of US Patent 4846785 to Cassou et al.

Ring describes the invention substantially as set forth above, but does not include the limitation of a visual travel indicator.

Cassou et al. teach in col. 4 lines 2-5 the limitation of an actuator including a visual travel indicator or markings 20.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the portion of element 60 extending outside element 83 to have included a visual travel indicator, as taught by Cassou et al., in



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order to provide a means of monitoring linear travel of element 60 to monitor the amount of brake actuation for brake control purposes.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 6279696 to Daugherty, Jr. et al., 6619443 to Ring et al., and 6279689 to Zemyan teach similar rail brake actuators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 12, 2004

*Melody M. Burch*  
11/12/04